

PATENT  
Attorney Docket No. 101.0059-02000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:  
Gary K. Michelson, M.D.  
Serial No.: 10/674,971  
Filed: September 30, 2003  
For: INTERBODY SPINAL FUSION  
IMPLANT HAVING A REDUCED  
WIDTH AND AN ANATOMICALLY  
CONFORMED TRAILING END

Confirmation No.: 4939

Group Art Unit: 3738  
Examiner: Dave Willse

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**TERMINAL DISCLAIMER**

Petitioner ("Assignee") Warsaw Orthopedic, Inc., duly organized under the laws of the State of Indiana, and having its principal place of business at 2500 Silveus Crossing, Warsaw, Indiana 46581, represents that it is the only assignee of the entire right, title and interest in and to the above-identified application Serial No. 10/674,971, filed September 30, 2003 for INTERBODY SPINAL FUSION IMPLANT HAVING A REDUCED WIDTH AND AN ANATOMICALLY CONFORMED TRAILING END in the name of Gary K. Michelson, as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 018590, Frame 0246, and is the only assignee of the entire right, title and interest in and to the following: (1) application Serial No. 09/263,266, filed March 5, 1999 (now U.S. Patent No. 6,241,770) for INTERBODY SPINAL FUSION IMPLANT HAVING AN ANATOMICALLY CONFORMED TRAILING END in the name of Gary K. Michelson, as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 018590, Frame 0246; (2) application Serial No. 09/566,272, filed May 5, 2000 (now U.S. Patent No. 6,485,517) for NESTED INTERBODY SPINAL FUSION IMPLANTS in the name of Gary K. Michelson, as indicated by the assignment duly recorded in the

United States Patent and Trademark Office at Reel 018573, Frame 0585;  
(3) application Serial No. 09/792,679, filed February 22, 2001 for INTERBODY SPINAL FUSION IMPLANT HAVING AN ANATOMICALLY CONFORMED TRAILING END in the name of Gary K. Michelson, as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 018573, Frame 0086;  
(4) application Serial No. 10/246,931, filed September 19, 2002 for NESTED INTERBODY SPINAL FUSION IMPLANTS in the name of Gary K. Michelson, as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 018573, Frame 0086. Assignee Warsaw Orthopedic, Inc. further represents through its representative that to the best of assignee's knowledge and belief, title to application Serial No. 10/674,971 and United States Patent Nos. 6,241,770 and 6,485,517 and application Serial Nos. 09/792,679 and 10/246,931 are in assignee, which is submitting this Terminal Disclaimer.

To obviate a double patenting rejection, Warsaw Orthopedic, Inc. hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified application, Serial No. 10/674,971, which would extend beyond the expiration date of Patent Nos. 6,241,770 and 6,485,517 and any patents issued from application Serial Nos. 09/792,679 and 10/246,931, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent Nos. 6,241,770 and 6,485,517 and any patents issued from application Serial Nos. 09/792,679 and 10/246,931, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on application Serial No. 10/674,971 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of Patent Nos. 6,241,770 and 6,485,517 and any patents issued from application serial Nos. 09/792,679 and 10/246,931, as presently shortened by any terminal disclaimer, in

the event that Patent Nos. 6,241,770 and 6,485,517 and any patents issued from application Serial Nos. 09/792,679 and 10/246,931: expire for failure to pay a maintenance fee, are held unenforceable, are found invalid by a court of competent jurisdiction, are statutorily disclaimed in whole or in part, are terminally disclaimed under 37 C.F.R. § 1.321, have all claims canceled by a reexamination certificate, are reissued, or are in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is to be charged to Deposit Account No. 50-3726. If there are any additional fees due in connection with the filing of this document, please charge the fees to our Deposit Account No. 50-3726. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of assignee Warsaw Orthopedic, Inc.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: December 7, 2006

By: 

Amedeo F. Ferraro  
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